19 51 **File No.** O. Mines & Mine 5

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Legal Deptt.
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Subject:— Opinions under the Mines and Minerals (Regulations and development) Act, 1948.

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Whether agreements entered into by Baroda Government with the Okha Cement Co. and Messrs. Tata Chemicals Ltd. are binding on the Government of Bombay.

The answer to the question raised by the Collector of Amreli will depend upon whether ~~it~~ or not the two agreements with the Okha Cement Co. and Messrs. Tata Chemicals Ltd. are recognised by the Government of Bombay. In this connection attention is invited to R.L.A's opinions Nos.2341, dated the 17th February 1950 and 2453, dated the 20th February 1950. In the latter opinion the agreement with Messrs. Tata Chemicals Ltd. has been considered. Both the leases in question have not been granted under any provision of law; and in the absence of any specific recognition, are not binding on the State Government. It is understood that the Development Department proposes to terminate the monopoly granted to Messrs. Tata Chemicals Ltd. and ask the Company to apply for a mining lease under the Mineral Concession Rules, 1949. Perhaps the Development Department proposes to take similar action in respect of all such leases granted by Rulers of States before merger. The Revenue Department should therefore first consult the Development Department in the matter. For, if the leases have been terminated the question raised in this file would not survive.

Sd. P.M.Lad
10/1
Remembrancer of Legal Affairs.

U.R.to R.D.,No.729,dated the 12th January 1951.

MRP.
26/6/56.

Office of the R.L.A.

It appears that the administration of the Kurundwad (Senior) State had on 29-3-1944 entered into an agreement with one Shri Dalchand Singh under which he was granted a mining concession. The terms of that agreement are inconsistent with the Mineral Concession Rules, 1949; and therefore D.D. has decided not to recognise the agreement with the former merged State. The R.L.A. is requested to advise on the question whether if the party insists on arking the mines on the present terms what should be the Government's next action, whether suit or forcible eviction.

2. It appears from Shri Singh's letter dated 19-2-1951 at p.13 of the correspondence section that his contention is that the agreement dated 29-3-1944 was entered into with the Kurundwad (Sr.) State and not with its Ruler and therefore it is binding on the succeeding Government. There is no force in this contention. "After cession of territory the only enforceable rights against the Sovereign are those conferred by him after the cession either by agreement, express or implied, or by legislation" (Secretary of State for India vs. Bai Rajbai, 17 Bom. L.R.730 (P.C.). That the agreement was entered into with the State and not with the Ruler would not therefore affect the position. If Shri Singh continues to work the mines inspite of the notice given to him that Government does not admit the agreement, he will be

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acting unauthorizedly as the agreement with the merged State has not been recognized by Government. It is true that the Mines and Minerals (Regulation & Development) Act, 1948, does not make a specific provision that no person shall work mines etc. without a lease. It is pr sumed that the land on which Shri Singh is working belongs to Government. If he insists on carrying on his activities, action can be taken to evict him summarily under the Bombay Land Revenue Code, 1879.

Sd. J.R.Dhurandhar,
Remembrancer of Legal Affairs.

U.R.to D.D.,No.3986, dated 10-3-1951.

MRP.
26/6/56.

Office of the R.L.A.

Although the lease in the present case was granted in 1941, it appears that the lessee has not been working the mines. However, it appears that he has been paying the rent from the commencement of the lease. He also paid it even after the merger of the Sawantwadi State in the Bombay State. Consequently acceptance of rent by Government after the merger would be construed as recognition by this Government of the lease impliedly, if not expressly. It would not, therefore, be competent for Government to terminate the lease with effect from the date of merger. Since the Mines and Minerals (Regulation and Development) Act, has been extended to the area and since in view of section 4 of that Act no mining lease shall be deemed to be valid unless it is granted in accordance with the rules made under that Act, the Lessee may be informed that the lease granted by the Sawantwadi State in 1941 is no longer valid and if he wants a fresh lease he should make a fresh application.

2. Each case of mining lease granted by the former Rulers should be considered on its own merits and it is not possible to lay down any general rule as to how such leases should be terminated.

Sd. J.R.Dhurandhar
21/8

Remembrancer of Legal Affairs.

U.R.to D.D.,No.13479, dated the 23rd August 1951.

MRP.26/6/56.